

Appl. No. : **10/728,063**
Filed : **December 4, 2003**

AMENDMENTS TO THE DRAWINGS

Applicants have amended Figure 2 and added Figure 2b as shown on the attached drawing sheets. These drawing sheets include a "Replacement Sheet" and a marked up version showing the changes to Figure 2 in red ink. Additionally, new Figure 2b is submitted on an additional separate sheet. As fully explained below, Applicants respectfully assert that these drawing changes are fully supported by the originally filed specification and claims, and therefore do not constitute new matter.

Appl. No. : 10/728,063
Filed : December 4, 2003

REMARKS

A. Introduction

Applicants respectfully request reconsideration and allowance of this application. Claims 5-17 and 19-21 are pending in the application. Applicants have canceled Claims 1-4 and 18 without prejudice. Applicants reserve the right to pursue these and other similar claims in continuing applications.

Applicants have rewritten Claims 9 and 10 to be allowable as indicated by the Examiner. Applicants have amended Claims 5, 15 and 19. Applicants' claim amendments are shown on the pages above following the heading AMENDMENTS TO THE CLAIMS. On these pages, the deletions are ~~strike through~~ while the insertions are underlined.

Applicants submit that this application, as amended, is now in condition for allowance, and Applicants earnestly request such action. Below, Applicants address each of the Examiner's reasons for rejection.

B. The Drawings Show Every Feature Specified in the Claims

The Examiner objected to the drawings under 37 CFR 1.83(a) as not showing every feature specified in the claims. Specifically, the Examiner stated that the water diverter bucket of Claim 2 and the electric motor of Claim 14 were not shown. Applicants have canceled Claim 2, and thus, the present objection to Claim 2 is now moot.

Applicants submit herewith a new drawing sheet in compliance with 37 CFR 1.121(d) including new Figure 2b. Figure 2b illustrates, schematically, an electric motor M that controls the throttle body assembly 88 through a direct connection 89. Applicants respectfully assert that new Figure 2b is fully supported by the originally filed specification and claims, and therefore does not constitute new matter. For example, original paragraph 38 recited that "The throttling mechanism can be controlled by an electric motor either through a direct connection or through a remote connection."

Because Figure 2b illustrates an electric motor, Applicants respectfully assert that the drawings show every feature specified in the claims. Accordingly, Applicants respectfully request that the Examiner withdraw this objection.

Appl. No. : 10/728,063
Filed : December 4, 2003

The Examiner objected to the drawings under 37 CFR 1.84(p)(5) as not including reference numeral 40 mentioned in the description. Applicants submit herewith an amended drawing sheet in compliance with 37 CFR 1.121(d) including reference numeral 40 (see Figure 2). Accordingly, Applicants respectfully request that the Examiner withdraw this objection.

C. All Claims Comply with the Requirements of § 112

The Examiner rejected Claims 2 and 21 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner has taken the position that Applicants have failed to describe in detail, such that it can be made and used, the water diverter bucket that includes at least first and second openings that are arranged to produce simultaneous thrust in generally opposite directions such that the watercraft remains generally stationary. While Applicants respectfully disagree with this rejection, Applicants have nonetheless canceled Claim 2 without prejudice in order to expedite issuance of the remaining claims. Applicants reserve the right to pursue this and other similar claims in continuing applications.

The Examiner has also taken the position that Applicants have failed to describe in detail how the means for selecting of Claim 19 additionally lowers engine speed during a shifting operation. Applicants direct the Examiner's attention to paragraphs 54-56 of the specification, which describe one embodiment of a means for selecting as recited in Claims 19 and 21. For example, paragraph 54 recites that "The engine speed control by the ECU 153 can be accomplished many known ways including, but not limited to controlling the throttle actuator, an auxiliary air bypass valve, fuel injection amount and timing, ignition timing, camshaft timing adjustment and combinations thereof." Paragraph 56 recites that "during a shifting operation, the ECU 153 can lower the engine idle speed to allow the operator to comfortably operate the watercraft 30 between a neutral and forward or a neutral and reverse operation."

Those of ordinary skill in the art would understand that lowering of the engine idle speed (as recited in Claim 21) could be accomplished through any of the well-known ways recited in paragraph 54. Thus, those of ordinary skill in the art would understand from Applicants' disclosure how the means for selecting of Claim 19 additionally lowers engine speed during a shifting operation. Because those of ordinary skill in the art would understand from Applicants'

Appl. No. : **10/728,063**
Filed : **December 4, 2003**

disclosure how to make and use the watercraft recited in Claim 21 without undue experimentation, Applicants respectfully assert that Claim 21 is enabled by Applicants' disclosure. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

D. All Claims are Patentable Over the Cited References
Woodfill

The Examiner rejected Claims 1, 3, 4 and 18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,026,235 to Woodfill. While Applicants respectfully disagree with these rejections, Applicants have nonetheless canceled Claims 1, 3, 4 and 18 without prejudice in order to expedite issuance of the remaining claims. Applicants reserve the right to pursue these and other similar claims in continuing applications.

Matsuda et al. - § 102 Rejections

The Examiner rejected Claims 5-8, 11-13 and 15-17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,478,638 to Matsuda et al. (Matsuda). Applicants respectfully submit that these claims, as amended, are allowable over Matsuda.

Matsuda discloses a jet-propulsion watercraft that can maintain steering capability even during a throttle-closed operation. The watercraft includes a push-pull cable provided between a rotational shaft of a steering handle and a throttle lever. As a steering angle of the watercraft increases, the push-pull cable actuates the throttle lever to increase engine speed.

Matsuda does not disclose or suggest a control lever that cooperates with a throttle actuator mechanism, and that is selectively positioned in at least first and second positions, wherein the control lever is actuatable to assume either of the first and second positions independently of a steering condition of the watercraft. The disc 30 or the pins 33a, 33b of Matsuda are only actuatable by steering the watercraft. (See col. 9, ll. 4-20).

In contrast, Claim 5 recites, among other recitations, a watercraft comprising a hull, and an engine supported by the hull, the engine including at least one throttle. The engine drives a jet propulsion unit, which comprises a steering nozzle configured to direct a jet of water exiting the jet propulsion unit. A throttle actuator mechanism is coupled with the throttle. A control lever cooperates with the throttle actuator mechanism. The control lever is selectively positioned in at

Appl. No. : **10/728,063**
Filed : **December 4, 2003**

least first and second positions. The control lever is actuatable to assume either of the first and second positions independently of a steering condition of the watercraft. The first position of the control lever is arranged such that the throttle actuator mechanism rests in a first position. The second position of the control lever is arranged such that the throttle actuator mechanism rests in a second position. The throttle has a first position when the throttle actuator mechanism rests in its first position, and has a second position when the throttle actuator mechanism rests in the second position. The second throttle position provides a larger opening degree than the first throttle position. There are numerous advantages of Applicants' control lever. For example, a watercraft rider may actuate the control lever to achieve an increased engine speed even when performing gradual turns, without the movement of the handlebars affecting the throttle lever position.

Since Matsuda does not disclose or suggest a control lever having the features and advantages outlined above, Applicants respectfully submit that independent Claim 5 is not anticipated by Matsuda. Dependent Claims 6-8 and 11-13, which include the features of independent Claim 5, recite additional features of particular advantage and utility. Moreover, these claims are allowable for substantially the same reasons presented above. Matsuda does not disclose or suggest all of the limitations of Claim 5, let alone the unique combinations of features recited by Claims 6-8 or 11-13. Accordingly, Applicants respectfully request that the Examiner withdraw these rejections.

With respect to Claim 15, Matsuda discloses the jet-propulsion watercraft described above, in which the control device is actuated by steering the watercraft.

In contrast, Claim 15 recites, among other recitations, a method of controlling an engine speed of a marine engine that powers a propulsion unit of a watercraft. The method comprises selecting between a first throttle resting position and a second throttle resting position depending upon a desired operational mode of the watercraft. The second throttle resting position causes the engine to power the propulsion unit by an amount sufficient to assist steering of the watercraft when decelerating from at least a planing speed. The step of selecting between the first throttle resting position and the second throttle resting position is independent of a steering condition of the watercraft.

Appl. No. : **10/728,063**
Filed : **December 4, 2003**

Since Matsuda does not disclose or suggest Applicants' method, Applicants respectfully submit that independent Claim 15 is not anticipated by Matsuda. Dependent Claims 16 and 17, which include the features of independent Claim 15, recite additional features of particular advantage and utility. Moreover, these claims are allowable for substantially the same reasons presented above. Matsuda does not disclose or suggest all of the limitations of Claim 15, let alone the unique combinations of features recited by Claims 16 or 17. Accordingly, Applicants respectfully request that the Examiner withdraw these rejections.

Irgens

The Examiner rejected Claims 19-21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,146,632 to Irgens. Applicants respectfully submit that these claims, as amended, are allowable over Irgens.

Irgens discloses a speed and clutch control device including auxiliary means for advancing engine speed. The device includes a main control lever 23 and an auxiliary control lever 43. When the main control lever 23 is in neutral, movement of the auxiliary lever 43 from its slow idle position to its fast idle position advances the engine throttle setting by displacing the anchor block 37 to the left (Figures 1 and 3).

Irgens does not disclose or suggest a means for selecting between at least a first and a second resting position for a throttle, wherein the means is operable to select between the first and second resting positions at least while the engine is acting to propel the watercraft in a forward direction. On the contrary, Irgens teaches an arrangement for permitting an engine to be warmed up before being placed under load. *See* col. 1, ll. 15-20. The arrangement of Irgens allows the engine throttle setting to be advanced through a limited range when the main control lever is in its neutral position. *See* col. 1, ll. 39-42 and col. 2, ll. 61-69.

In contrast, Claim 19 recites, among other recitations, a watercraft comprising a hull, and an engine supported by the hull. The engine comprises a throttle, and a means for selecting between at least a first and a second resting position for the throttle. The second resting position provides a larger opening degree than the first throttle position. The watercraft further comprises a throttle actuator mechanism coupled to the throttle. The actuator mechanism moves the throttle from either the first or second resting position toward a wide open position. The means for

Appl. No. : **10/728,063**
Filed : **December 4, 2003**

selecting is operable to select between the first and second resting positions at least while the engine is acting to propel the watercraft in a forward direction.

There are numerous advantages of Applicants' means for selecting between at least a first and a second resting position for the throttle. For example, a watercraft rider may operate the means for selecting while traveling forward in order to generate increased thrust that aids in turning maneuvers.

Since Irgens does not disclose or suggest a means for selecting between at least a first and a second resting position for the throttle as described above, Applicants respectfully submit that independent Claim 19 is not anticipated by Irgens. Dependent Claims 20 and 21, which include the features of independent Claim 19, recite additional features of particular advantage and utility. Moreover, these claims are allowable for substantially the same reasons presented above. Irgens does not disclose or suggest all of the limitations of Claim 19, let alone the unique combinations of features recited by Claims 20 or 21. Accordingly, Applicants respectfully request that the Examiner withdraw these rejections.

Matsuda in view of Powers

The Examiner rejected Claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Matsuda in view of U.S. Patent No. 3,899,993 to Powers. Applicants respectfully submit that this claim is allowable over Matsuda in view of Powers.

Claim 14 depends from Claim 5. As explained above, Claim 5 is allowable over the art of record. Since Claim 14 includes each of the limitations of Claim 5, Claim 14 is also allowable. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

Appl. No. : 10/728,063
Filed : December 4, 2003

CONCLUSION

For the reasons presented above, Applicants respectfully submit that this application, as amended, is in condition for allowance. If there is any further hindrance to allowance of the pending claims, Applicants invite the Examiner to contact the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

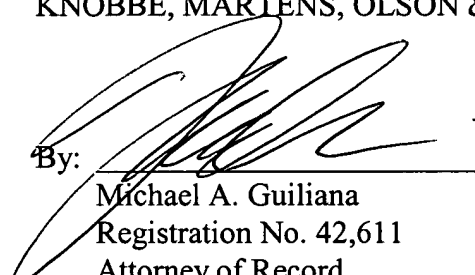
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

5/31/05

By: _____



Michael A. Guiliana
Registration No. 42,611
Attorney of Record
Customer No. 20,995
(949) 760-0404

1734938
053105

January 31, 2005

OFFICE OF THE
JUL 02 2005
PATENT & TRADEMARK OFFICE